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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

EUGENE SCALIA, Secretary of Labor,
UNITED STATES DEPARTMENT OF
LABOR,

Plaintiff,

v.

TFORCE FINAL MILE WEST LLC, a
Delaware company; and ON COURIER 365,
INC., a California corporation,

Defendants.

Case No. 3:17-cv-06624 RS-SK

**STIPULATION TO MODIFY CASE
SCHEDULE**

[AS MODIFIED BY THE COURT]

Complaint Filed: November 16, 2017
Trial Date: August 24, 2020

1 Plaintiff EUGENE SCALIA, Secretary of Labor, UNITED STATES DEPARTMENT OF
2 LABOR (“Plaintiff”) and Defendant TForce FINAL MILE WEST LLC (“TForce”) (collectively,
3 “the Parties”), submit this stipulated request for the Court to modify the schedule for good cause
4 under Rule 16(b)(4). Good cause to modify the case schedule exists, for the following reasons:

5 1. On November 16, 2017, Plaintiff initiated this lawsuit by filing a complaint in this
6 Court. ECF 1.

7 2. On March 22, 2018, the Court entered a Scheduling Order, following the initial
8 Case Management Conference. ECF 40. The Order set trial for October 21, 2019. *Id.*

9 3. On October 7, 2019, the Court entered the operative Scheduling Order following
10 the Parties’ stipulation to modify the case schedule. ECF 77.

11 4. On February 26, 2020, the Court modified pretrial and discovery deadlines while
12 keeping the trial date the same following the Parties’ stipulation to modify the case schedule.
13 ECF 100.

14 5. Plaintiff and Defendant On Courier 365, Inc., reached a settlement and this court
15 entered a consent judgment on February 26, 2020. ECF. 102.

16 6. The Parties have been diligently conducting discovery including bringing several
17 discovery disputes to the court for resolution.

18 7. The Parties’ discovery has been impacted by events beyond their control and
19 requires more time to complete. First, discovery has been slowed because of a delay by third-
20 party Google, Inc. in producing complete delivery data due to the unavailability of the individual
21 who has access to the data. The new data from Google, Inc., produced yesterday, is voluminous
22 and requires in-depth analysis. Expert witnesses will not have adequate time to analyze the data
23 before the current deadline for expert disclosures (i.e., next Monday, March 23). Second,
24 Defendant’s ESI vendor, Epiq, was subject to a cyber-attack on March 2, 2020 that forced it to
25 shut down ESI access and services to its clients nationwide, including TForce. To date, TForce’s
26 access to the ESI review platform hosted by Epiq has not been fully restored. This has slowed the
27 processing and production of documents, and it has delayed at least one deposition that was
28 originally scheduled for last week in Charlotte, North Carolina. Third, on March 16, 2020, the
Court issued an order (ECF 107) modifying Magistrate Judge Kim’s discovery order regarding

1 the Secretary's identification of driver-witnesses for deposition. The discovery order may give
2 rise to discovery and depositions that the Parties need to complete, along with several other
3 depositions, before discovery closes. Finally, recent events related to the coronavirus, including
4 significant limitations on travel and movement nationwide and the March 16, 2020 "shelter in
5 place" order in Northern California, has made scheduling depositions, preparing witnesses for
6 deposition, and securing attendance of witnesses insurmountably difficult in the short term before
7 discovery closes. Thus, the Parties wish to continue the trial and pre-trial dates accordingly.

8 NOW, THEREFORE, the Parties hereby stipulate and request that the Court modify the
9 schedule to reflect the following dates:

- 10 a. Case Management Conference currently set for **May 21, 2020**, will be continued to
11 ~~a date convenient for the Court.~~ **August 27, 2020. Case Management Statement**
due August 20, 2020.
- 12 b. On or before **August 14, 2020**, the parties shall designate experts.
- 13 c. On or before **September 16, 2020**, the parties shall designate their supplemental and
14 rebuttal experts.
- 15 d. On or before **October 16, 2020**, the Parties shall complete all non-expert discovery.
- 16 e. On or before **October 16, 2020**, the parties shall complete all discovery of expert
17 witnesses.
- 18 f. All pretrial motions shall be heard no later than **December 18, 2020**, ~~or as soon~~
~~thereafter as the Court is available.~~
- 19 g. The final pretrial conference shall be held on **February 3, 2021**, ~~or as soon~~
20 ~~thereafter as the Court is available.~~
- 21 h. Trial shall commence on ~~a date set by the Court on or after~~ **February 22, 2021**, ~~or~~
22 ~~as soon thereafter as the Court is available.~~

23 PURSUANT TO STIPULATION, IT IS SO ORDERED.

24 DATED: 3/18/2020



RICHARD SEEBORG
United States District Judge

25 Respectfully submitted,

1 DATE: March 17, 2020
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3

4 *s/ Boris Orlov*

BORIS ORLOV

5 U.S. Department of Labor

6 Attorneys for the
7 Secretary of Labor
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s/ Brian Berry

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